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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,603	02/28/2002	Kyoko Kobayashi	0992-0128P	3606

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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,603

Applicant(s)

KOBAYASHI ET AL.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/31/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-13, 15-40 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-13, 15-40 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

1. The art rejections over EP 974 617 in view of EP 976 782 are maintained.
2. The 112 claim rejections, second paragraph are considered moot in view of the present amendment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-13, 15-40, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 974 617 in view of EP 976 782 substantially as set forth in the 06/30/2005 Office Action. Yorita et al (US 6,303,666) ("Yorita") is relied on as an equivalent form of EP 976 782. With regard to newly added claim 52,

<i>Yorita (US'666)</i>	<i>Claimed invention</i>
Crosslinked olefinic copolymer (A-3)(a)	ethylene/ α -olefin copolymer (a-2)
Olefinic plastic (B)	polyethylene resin (a-1)

Yorita discloses the cross-linked olefinic copolymer (A-3)(a) and a decomposable olefinic plastic resin (A-3)(b) are subjected to dynamic crosslinking in the presence of a crosslinking agent. Yorita teaches the olefinic plastic (B) is added to the admixture ((A-3)(a) and (A-3)(b)) **after** the cross-linked olefinic copolymer (A-3)(a) is already prepared so as to eliminate the thermal decomposition and crosslinking of olefinic copolymer A-3)(a) by heat, thereby obtaining an expanded product as intended (column 13, lines 25-35). Since the olefinic copolymer (A-3)(a)

is already crosslinked before kneaded under heat with the olefinic plastic (B), no cross-linking agents are required when the admixture of the olefinic plastic (B) and the crosslinked olefinic copolymer (A-3)(a) are subjected to the dynamic heat treatment. The recitation "the ethylenic thermoplastic elastomer (A) has no crosslinking prior to dynamic heat treatment" does not necessarily indicate that none of the components (a-1) and (a-2) would be cross-linked, but rather the crosslinking between the components is not activated because of the absence of a crosslinking agent. To the examiner's interpretation, the recitation does not exclude an embodiment wherein the ethylenic thermoplastic elastomer (A) could have one crosslinked component and the crosslinking between the crosslinked component and other components is not activated due to the absence of a cross-linking agent.

The art rejections have been maintained for the following reasons. The declaration has been thoroughly reviewed and considered. However, it is not found persuasive to overcome the art rejections. It is recognized that the experiments in the declaration have shown that the laminate made from a foamed core and a skin material is superior wear resistance and better spongy hand touch to the laminate made from a unfoamed core and a skin material. It is in no doubt that replacement of a solid core with a foam core would alter some physical properties of the laminate. However, the question is raised whether differences in such physical properties are unexpected in order to overcome the finding of obviousness. In the declaration, Mr. Kobayashi has demonstrated the laminate with the foamed core having greater resistance to abrasion and better spongy hand touch than that with the solid core

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wherein the foam core and solid core are made from the same thermoplastic elastomers. However, Mr. Kobayashi fails to explain why he thinks such properties are unexpected. To the examiner's understanding, the spongy hand touch is not unexpected for the laminate with the foam core because US '666 discloses the expanded product is excellent in surface appearance (column 30, lines 38-40). Substitution of the foamed core for the unfoamed core of the same materials would render the laminate excellent in soft touch and hand feel due to the resilience of the foam. The same token is applied to the wearing characteristics. The examiner directs Applicant's attention to US 6,160, 029 to Chaudhary that evidences that the foam with a skin has shown an improved softness and better resistance to abrasion. Similarly, US 5,120,587 to McDermott, II et al has shown that when the cushions are placed underneath the carpets, the wear and the tear on the carpet is improved. US 3,929,026 to Hofmann discloses the foam with an integral skin provides high abrasion, impact and tear resistance characteristics. Chaudhary, McDermott and Hofmann references are sufficient to demonstrate that the wear and the tear are not unexpected results but rather expected when a solid core is replaced by a foamed core in a laminated structure. Accordingly, the art rejections are sustained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on Monday through Friday, from 6:00 to 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hai Vo

HA VO
PRIMARY EXAMINER